

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1693-02  
Bill No.: HB 771  
Subject: Licenses - Driver's; Motor Vehicles; Telecommunications  
Type: Original  
Date: March 11, 2013

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Bill Summary: This proposal changes the laws regarding commercial drivers' licenses.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	Up to (\$166,560)	\$0	\$0
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>Up to (\$166,560)</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 9 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol** and **Office of the State Courts Administrator** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Joint Committee on Administrative Rules** state this legislation is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

§302.700, 302.720, 302.735 & 302.740

The proposed changes in these sections will require the **Department of Revenue (DOR)** to:

- Develop requirements and complete end user testing to modify the Missouri Electronic Driver License (MEDL) system and supporting systems to implement changes which include mandated Commercial Learner's Permit (CLP) term, standardization of restrictions and endorsements for CLP's, modifications to CDL and CLP document formats;
- Work with the new license contractor to incorporate required changes to the printed license or permit documents;

ASSUMPTION (continued)

- Modify current Code of State Regulations related to third party testing and CLP issuance;
- Develop system changes and procedures to implement required secondary review of all CDL and CLP transactions and supporting documentation.

**Testing CLP Issuance and Restriction Changes**

Administrative Analyst -	660 hrs @ \$16 per hr =	\$10,560
Management Analyst Specialist II -	660 hrs @ \$23 per hr =	\$15,180
Revenue Band Manager II -	132 hours @ \$30 per hour=	<u>\$3,960</u>
<b>Total =</b>		<b>\$29,700</b>

**Personnel Services Bureau**

Update web page - Administrative Analyst III - 40 hrs @ \$22 =	\$880
Update forms - Management Analysis Spec I - 80 hrs @ \$20 =	\$1,600
Update procedures - Management Analysis Spec I -120 hrs @ \$20 =	<u>\$2,400</u>
<b>Total =</b>	<b>\$4,880</b>

MorphoTrust costs for modification to the CLP document = **\$28,000**.

OA-ITSD staff will need to make programming changes to the Missouri Driver License System, Missouri Electronic Driver License System - Central Issuance and Central Driver Information System.

The level of effort is calculated at 3324 FTE hours @ \$27.05 per hour = **\$89,914**.

In summary, DOR assumes a cost of \$152,494 (\$29,700+ \$4,880 + \$28,000 + \$89,914) in FY 2014 to provide for the implementation of the changes in this proposal in this section.

\$302.755

The proposed changes in this section will require the **Department of Revenue (DOR)** to:

- Include CDL permit holders in the disqualification routine;
- 'Stack' most CDL disqualifications;
- Include texting and hand-held mobile telephone convictions (commercial motor vehicles only) in the serious disqualification routine;
- Updates to Procedures, Correspondence letters and Department's website;

ASSUMPTION (continued)

- Requires training of staff;
- Requires a review of administrative rules for possible revisions.

OA-ITSD staff will need to make programming changes to the Missouri Driver License (MODL) system.

The level of effort is calculated at 400 hours @ \$27.05 per hour = \$10,820.

\$304,820

This proposal amends existing provisions for hand-held mobile phone and electronic texting to prohibit such use while operating a commercial motor vehicle (CMV), so as to comply with federal requirements in this regard. The act of "texting" while driving a commercial motor vehicle is prohibited under 49 CFR 392.80 of the Federal Motor Carrier Safety Administration (FMCSA) regulations, as an enumerated "serious traffic offense" for commercial driver license (CDL) disqualification under Table 2 of 49 CFR 383.51, and for state compliance for its commercial driver license program under 49 CFR Part 384.

The proposed changes in this section will require the **Department of Revenue (DOR)** to:

- Include current MODL codes for texting while driving (1153, 2153, 3153) in the serious disqualification routine when the CMV indicator is 'Y'; and
- Develop new MODL codes for driving a CMV with a hand-held mobile telephone and include it in the serious disqualification routine.

OA-ITSD Staff will need to make programming changes to MODL. The level of effort is calculated at 120 hours @ \$27.05 per hour = \$3,246.

In summary, DOR assumes a total cost of \$166,560 (\$152,494 + \$10,820 + \$3,246) in FY 2014 to provide for the implementation of the changes in this proposal.

**Oversight** assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb some of the personal service cost related to this proposal. Oversight assumes some of DOR's anticipated work hours could be performed during the normal work day and not create an additional expense to their budget; therefore, Oversight will range the cost to DOR as up to \$166,560.

ASSUMPTION (continued)

Recent Final Rules amending the Federal Motor Carrier Safety Regulations (FMCSRs) which require state adoption, include the Limiting the Use of Wireless Communication Devices rule that became effective on 10/27/2010, with a state compliance date of 10/27/2013; Commercial Driver's License Testing and Commercial Learner's Permit Standards rule effective on 7/8/2011, with a state compliance date of 7/8/2014; and the Drivers of CMVs: Restricting the Use of Cellular Phones rule effective on 1/3/2012, with a state compliance date of 1/3/2015. It should be noted that all three of these rules have CDL implications.

One of the requirements to remain classified as compatible with FMCSRs, subsection (d) of §350.331 states, "As soon as practical after the effective date of any newly enacted regulation or amendment to the FMCSRs or HMRs, but no later than three years after that date, the State must amend its laws or regulations to make them compatible with the FMCSRs and/or HMRs, as amended."

Failure of the state to adopt a regulation, with CDL implications, would make the state incompatible with the CDL regulations. The FMCSA will then notify the state of their CDL program status being changed from compliant to a status of substantial non-compliance. Failure of the state to retain the compliant status of the CDL regulations could trigger the requirements of 49 U.S.C. § 31314 regarding the withholding of 4% of federal highway funds for the first year and non-compliance and 8% for each fiscal year thereafter, until compliance is gained.

Officials from the **Department of Transportation** anticipates no fiscal impact if this legislation were to pass. If it does not pass, DHT is subject to a withhold of federal funds amounting \$30 million the first year and \$60 million each year there after.

**Oversight** assumes Missouri will be in compliance with the mandated provisions and will assign no cost for sanctions.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
<b>GENERAL REVENUE</b>			
<u>Costs - DOR</u>			
Administrative changes to prepare for updates in the proposal	<u>Up to</u> <u>(\$166,560)</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b><u>Up to</u></b> <b><u>(\$166,560)</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2014 (10 Mo.)	 FY 2015	 FY 2016
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal changes the laws regarding commercial motor vehicles to conform with Federal Motor Carrier Safety Administration regulations. In its main provisions the proposal:

- (1) Revises the definition of "disqualification" to include the suspension, revocation, or cancellation of a commercial driver's instruction permit;
- (2) Defines "electronic device" as a device that includes but is not limited to a cell phone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text;
- (3) Defines "mobile telephone" as a mobile communication device that is classified as or uses a commercial mobile radio service, but does not include a two-way or citizens band radio service;
- (4) Revises the definition of "serious traffic violation" to include a violation of state or local law on motor vehicle traffic control prohibiting texting or the use of a mobile telephone while driving a commercial motor vehicle;

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FISCAL DESCRIPTION (continued)

(5) Defines "texting" as manually entering text into or reading text from an electronic device including short message service, emailing, instant messaging, commanding or requesting access to a website, pressing more than a single button to initiate or terminate a call on a mobile telephone, or engaging in another form of electronic text retrieval or entry;

(6) Requires all applicants for a commercial driver's license to maintain the appropriate class of commercial driver's instruction permit issued by this state or another state for a minimum of 14 calendar days prior to the date of completing skills testing;

(7) Changes the laws regarding the amount of time a military member must be regularly employed to receive a waiver from the commercial motor vehicle driving skills test. Currently, the member must be regularly employed in a job requiring the operation of a commercial motor vehicle and has operated the vehicle for at least 60 days during the two years immediately preceding his or her application for a commercial driver's license. The proposal requires the military member to be regularly employed in a military position within the last 90 days for the member to obtain the skills test waiver;

(8) Changes nonresident commercial driver's licenses to nondomiciled commercial driver's licenses and the provisions for obtaining a nondomiciled commercial driver's license are changed to reflect that such allows an applicant to obtain a nondomiciled commercial driver's instruction permit;

(9) Requires a commercial driver's instruction permit to include the same information as a commercial driver's license and contain the words "CDL PERMIT" or "COMMERCIAL LEARNER PERMIT";

(10) Requires a disqualification period to be in addition to any other previous periods of disqualification in a manner consistent with federal law, unless the major or serious violations are a result of the same incident; and

(11) Prohibits a person from texting or using a hand-held mobile telephone while operating a moving commercial motor vehicle. Currently, only a person less than 21 years of age is prohibited from texting while driving. A person convicted of texting or using a hand-held mobile telephone while driving a commercial motor vehicle may have his or her commercial driver's license disqualified.

This legislation is federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Transportation  
Joint Committee on Administrative Rules  
Office of the Secretary of State  
Department of Revenue  
Department of Public Safety  
Office of the State Courts Administrator

A handwritten signature in black ink, appearing to read "Ross Strope".

Ross Strope  
Acting Director  
March 11, 2013